

ASSEMBLY BILL

No. 1058

Introduced by Assembly Members Beall and Fuentes

February 27, 2009

An act to repeal Sections 11155, 11155.1, 11155.2, 11155.6, 11257.5, and 11260 of, and to repeal and add Section 11257 of, the Welfare and Institutions Code, relating to CalWORKs.

LEGISLATIVE COUNSEL'S DIGEST

AB 1058, as introduced, Beall. CalWORKs eligibility: asset limits.

Existing federal law provides for allocation of federal funds through the federal Temporary Assistance for Needy Families (TANF) block grant program to eligible states, with California's version of this program being known as the California Work Opportunity and Responsibility to Kids (CalWORKs) program.

Existing law provides for the CalWORKs program, under which each county provides cash assistance and other benefits to qualified low-income families and individuals who meet specified eligibility criteria.

Existing law continually appropriates money from the General Fund to pay for a share of aid grant costs under the CalWORKs program.

Existing law imposes limits on the amount of income and personal and real property an individual or family may possess in order to be eligible for aid under the CalWORKs program.

This bill would limit a CalWORKs applicant's assets, as defined, to \$7,000 in order to be eligible for aid, but would remove asset limitations with respect to a recipient of CalWORKs benefits, except as required by federal law. By increasing the duties of counties administering the

CalWORKs program, the bill would impose a state-mandated local program.

This bill would declare that no appropriation would be made for purposes of the bill pursuant to the provision continuously appropriating funds for the CalWORKs program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. The Legislature finds and declares all of the
2 following:

3 (a) In 1996, Congress passed the Personal Responsibility and
4 Work Opportunity Reconciliation Act (PRWORA), known as
5 welfare reform, which created the Temporary Assistance to Needy
6 Families (TANF) program. TANF gives states power to design
7 their own programs, including establishing asset limits. The
8 California Work Opportunity and Responsibility to Kids
9 (CalWORKs) is California's program implementing federal welfare
10 reform provisions.

11 (b) The structural components of the TANF program, as
12 administered by CalWORKs, have proven to be immensely
13 effective in preserving cash assistance for those in need. Federally
14 mandated and state-enforced time limits and work requirements
15 effectively deter anyone from applying for assistance without
16 having exhausted all other resources. These structural realities,
17 coupled with the social stigma associated with receiving public
18 assistance, prevent anyone with financial resources from
19 considering public assistance.

20 (c) In California, to qualify for public assistance under
21 CalWORKs, impoverished families must demonstrate that they
22 are both income- and asset-poor. Under current law, a low-income
23 family will not qualify for assistance if the family has savings or

1 other assets, excluding a home and specific vehicle allotment,
2 exceeding the asset limit of \$2,000.

3 (d) Asset limits were intended to ensure that public assistance
4 programs provide benefits only to those with too few resources to
5 support themselves. However, asset limits dissuade low-income
6 families from saving because, in doing so, they risk losing their
7 benefits. For families making the difficult transition from welfare
8 to work, developing assets is critical to achieving true economic
9 independence. In order to prevent a complete backslide to public
10 assistance, low-income working families must begin to develop
11 their own safety net through personal saving for use in the event
12 of an unexpected income shock due to illness or temporary
13 unemployment. As personal saving is essential to achieving
14 self-sufficiency, which is the stated goal of the CalWORKs
15 program, saving should be encouraged by welfare policy and social
16 service agencies, rather than penalized.

17 (e) To be economically secure, families need both income and
18 assets. Regular income helps families pay for their daily living
19 expenses. In contrast, families need assets to weather financial
20 hardships and get ahead. Assets provide a safety net for coping
21 with unanticipated expenses and emergencies, such as
22 unemployment, accidents, and illnesses, that could otherwise cause
23 significant financial hardship. Assets also help families build
24 wealth and plan for the future by, for example, saving for retirement
25 or investing in their children's education.

26 (f) Several studies have documented the negative effect of asset
27 limits on wealth accumulation among low-income households in
28 a variety of public assistance programs. One study found that 49
29 percent of public assistance recipients indicated that they would
30 save more if the government did not cut their benefits because of
31 their savings.

32 (g) Many states are actively trying to stimulate savings by TANF
33 recipients and other low-income people by addressing asset tests.
34 The States of Ohio and Virginia have eliminated the asset test
35 altogether. The State of Virginia decided to eliminate asset limits
36 for their TANF program, in December 2003, by administrative
37 action, with the goal of streamlining the eligibility process and
38 cutting down on administrative costs. This decision has saved the
39 state an estimated \$400,000 annually, and to date, the State of
40 Virginia has reported no "horror stories" of individuals with

1 significant assets scamming the TANF program. In addition, in
2 1997, the State of Ohio eliminated its asset limit and has not
3 experienced any spike in the rolls or reported fraud.

4 SEC. 2. Section 11155 of the Welfare and Institutions Code is
5 repealed.

6 ~~11155. (a) Notwithstanding Section 11257, in addition to the~~
7 ~~personal property or resources permitted by other provisions of~~
8 ~~this part, and to the extent permitted by federal law, an applicant~~
9 ~~or recipient for aid under this chapter including an applicant or~~
10 ~~recipient under Chapter 2 (commencing with Section 11200) may~~
11 ~~retain countable resources in an amount equal to the amount~~
12 ~~permitted under federal law for qualification for food stamps.~~

13 ~~(b) The county shall determine the value of exempt personal~~
14 ~~property other than motor vehicles in conformance with methods~~
15 ~~established under the Food Stamp Program.~~

16 ~~(c) (1) The value of licensed vehicles shall be the greater of the~~
17 ~~fair market value as provided in paragraph (3) or the equity value,~~
18 ~~as provided in paragraph (5), unless an exemption as provided in~~
19 ~~paragraph (2) applies.~~

20 ~~(2) The entire value of any licensed vehicle shall be exempt if~~
21 ~~any of the following apply:~~

22 ~~(A) It is used primarily for income-producing purposes.~~

23 ~~(B) It annually produces income that is consistent with its fair~~
24 ~~market value, even if used on a seasonal basis.~~

25 ~~(C) It is necessary for long distance travel, other than daily~~
26 ~~commuting, that is essential for the employment of a family~~
27 ~~member.~~

28 ~~(D) It is used as the family's residence.~~

29 ~~(E) It is necessary to transport a physically disabled family~~
30 ~~member, including an excluded disabled family member, regardless~~
31 ~~of the purpose of the transportation.~~

32 ~~(F) It would be exempted under any of subparagraphs (A) to~~
33 ~~(D), inclusive, but the vehicle is not in use because of temporary~~
34 ~~unemployment.~~

35 ~~(G) It is used to carry fuel for heating for home use, when the~~
36 ~~transported fuel or water is the primary source of fuel or water for~~
37 ~~the family.~~

38 ~~(H) The equity value of the vehicle is one thousand five hundred~~
39 ~~one dollars (\$1,501) or less.~~

~~(3) Each licensed vehicle that is not exempted under paragraph (2) shall be individually evaluated for fair market value, and any portion of the value that exceeds four thousand six hundred fifty dollars (\$4,650) shall be attributed in full market value toward the family's resource level, regardless of any encumbrances on the vehicle, the amount of the family's investment in the vehicle, and whether the vehicle is used to transport family members to and from employment.~~

~~(4) Any licensed vehicle that is evaluated for fair market value shall also be evaluated for its equity value, except for the following:~~

~~(A) One licensed vehicle per adult family member, regardless of the use of the vehicle.~~

~~(B) Any licensed vehicle, other than those to which subparagraph (A) applies, that is driven by a family member under 18 years of age to commute to, and return from his or her place of employment or place of training or education that is preparatory to employment, or to seek employment. This subparagraph applies only to vehicles used during a temporary period of unemployment.~~

~~(5) For purposes of this section, the equity value of a licensed vehicle is the fair market value less encumbrances.~~

~~(d) The value of any unlicensed vehicle shall be the fair market value less encumbrances, unless an exemption applies under paragraph (2).~~

SEC. 3. Section 11155.1 of the Welfare and Institutions Code is repealed.

~~11155.1. (a) Notwithstanding Sections 11155 and 11257, the department shall seek any federal approvals necessary to conduct a demonstration program increasing the value of personal property that may be retained by a recipient of aid under Chapter 2 (commencing with Section 11200) to two thousand dollars (\$2,000) and increasing the value of the exemption for an automobile to four thousand five hundred dollars (\$4,500). The increased property limits shall not apply to applicants.~~

~~(b) This section shall be implemented only if the director executes a declaration, that shall be retained by the director, stating that federal approval for the implementation of this section has been obtained and specifying the duration of that approval.~~

SEC. 4. Section 11155.2 of the Welfare and Institutions Code is repealed.

~~11155.2. (a) In addition to the personal property permitted by this part, recipients of aid under CalWORKs shall be permitted to retain savings and interest thereon for specified purposes. Interest earned from these savings and deposited into a restricted account shall be considered exempt as income for purposes of determining eligibility for aid and grant amounts if the interest is retained in the account. If the interest is not deposited by the financial institution into the account, the interest shall be treated as a nonqualifying withdrawal of funds from the account as specified in subdivision (b). This section shall not apply to applicants. Funds may be used by the family for education or job training expenses for the account holder or his or her dependents, for starting a business, for the purchase of a home, or for costs associated with securing permanent rental housing or to make rent payments to overcome an episode of homelessness. Recipients who wish to retain savings for these purposes shall enter into a written agreement with the county to establish a separate account with a financial institution, with the account to be used solely for the purpose of accumulating funds for later withdrawal for a qualifying expenditure. A qualifying expenditure shall be defined by department regulations and shall be verified by the recipient. The recipient shall agree to provide periodic verification of account activity, as required by department regulations. The agreement shall notify the recipient of the penalty for nonqualifying withdrawal of funds.~~

~~(b) Any nonqualifying withdrawal of funds from the account shall result in a calculation of a period of ineligibility for all persons in the assistance unit, to be determined by dividing the balance in the account immediately prior to the withdrawal by the minimum basic standard of adequate care for the members of the assistance unit, as set forth in Section 11452. The resulting whole number shall be the number of months of ineligibility. The period of ineligibility may be reduced when the minimum basic standard of adequate care of the assistance unit, including special needs, increases.~~

~~(c) If the California Savings and Asset Project is established pursuant to Chapter 17 (commencing with Section 50897) of Part 2 of Division 31 of the Health and Safety Code, then to the extent permitted by federal law, a recipient shall be eligible to receive matching funds derived from federal contributions for the purpose~~

1 of establishing an individual account in an amount not to exceed
2 three thousand dollars (\$3,000) in addition to the amounts specified
3 in subdivision (a) and a fiduciary organization may provide
4 amounts in excess of the first three thousand dollars (\$3,000)
5 limitation if contributed solely through private sources.

6 SEC. 5. Section 11155.6 of the Welfare and Institutions Code
7 is repealed.

8 ~~11155.6. (a) (1) The principal and interest in a 401(k) plan,~~
9 ~~403(b) plan, or 457 plan shall be excluded from consideration as~~
10 ~~property when determining eligibility and the amount of assistance~~
11 ~~with respect to an applicant for benefits who is not a recipient of~~
12 ~~CalWORKs benefits.~~

13 ~~(2) The principal and interest in a 401(k) plan, 403(b) plan, IRA,~~
14 ~~457 plan, 529 college savings plan, or Coverdell ESA, shall be~~
15 ~~excluded from consideration as property when redetermining~~
16 ~~eligibility and the amount of assistance for recipients of~~
17 ~~CalWORKs benefits.~~

18 ~~(b) For purposes of this section, the following terms have the~~
19 ~~following meanings:~~

20 ~~(1) "401(k) plan" means a deferred compensation plan that~~
21 ~~satisfies the requirements of Section 401(k) of the Internal Revenue~~
22 ~~Code.~~

23 ~~(2) "403(b) plan" means a qualified annuity plan that satisfies~~
24 ~~the requirements of Section 403(b) of the Internal Revenue Code.~~

25 ~~(3) "IRA" means an individual retirement account that satisfies~~
26 ~~the requirements of Section 408 of the Internal Revenue Code.~~

27 ~~(4) "457 plan" means a deferred compensation plan that satisfies~~
28 ~~the requirements of Section 457 of the Internal Revenue Code.~~

29 ~~(5) "529 college savings plan" means a qualified tuition program~~
30 ~~that satisfies the requirements of Section 529 of the Internal~~
31 ~~Revenue Code.~~

32 ~~(6) "Coverdell ESA" means an education savings account that~~
33 ~~satisfies the requirements of Section 530 of the Internal Revenue~~
34 ~~Code.~~

35 SEC. 6. Section 11257 of the Welfare and Institutions Code,
36 as amended by Section 1 of Chapter 569 of the Statutes of 1984,
37 is repealed.

38 ~~11257. (a) No aid under this chapter shall be granted or paid~~
39 ~~for any child who has real or personal property, the combined~~
40 ~~market value reduced by any obligations or debts with respect to~~

1 this property of which exceeds one thousand dollars (\$1,000), or
2 for any child or children in one family who have, or whose parents
3 have, or the child or children and parents have, real and personal
4 property the combined market value reduced by any obligations
5 or debts with respect to this property which exceeds one thousand
6 dollars (\$1,000).

7 For purposes of this subdivision, real and personal property shall
8 be considered both when actually available and when the applicant
9 or recipient has a legal interest in a liquidated sum and has the
10 legal ability to make that sum available for support and
11 maintenance.

12 (b) Notwithstanding subdivision (a) above, an applicant or
13 recipient may retain the following:

14 (1) Personal or real property owned by him or her, or in
15 combination with any other person, without reference to its value,
16 if it serves to provide the applicant or recipient with a home. If the
17 basic home is a unit in a multiple dwelling, then only that unit
18 shall be exempt.

19 For the purposes of paragraph (1), if an applicant has entered
20 into a marital separation for the purpose of trial or legal separation
21 or dissolution, real property which was the usual home of the
22 applicant shall be exempt for three months following the end of
23 the month in which aid begins. If the recipient was receiving aid
24 when the marital separation occurred, the period of exemption
25 shall be three months following the end of the month in which the
26 separation occurs. To remain exempt following this three-month
27 period, the home must be occupied by the recipient, or be
28 unavailable for use, control, and possession due to legal
29 proceedings affecting a property settlement or sale of the property.

30 (2) Personal property consisting of one automobile with
31 maximum equity value as permitted by federal law.

32 (3) In addition to the foregoing, the director may at his or her
33 discretion, and to the extent permitted by federal law, exempt other
34 items of personal property not exempted under this section.

35 SEC. 7. Section 11257 of the Welfare and Institutions Code,
36 as amended by Section 28 of Chapter 1022 of the Statutes of 2002,
37 is repealed.

38 11257. — (a) To the extent not inconsistent with Sections
39 11265.1, 11265.2, 11265.3, and 11004.1, no aid under this chapter
40 shall be granted or paid for any child who has real or personal

1 ~~property, the combined market value reduced by any obligations~~
2 ~~or debts with respect to this property of which exceeds one~~
3 ~~thousand dollars (\$1,000), or for any child or children in one family~~
4 ~~who have, or whose parents have, or the child or children and~~
5 ~~parents have, real and personal property the combined market~~
6 ~~value reduced by any obligations or debts with respect to this~~
7 ~~property which exceeds one thousand dollars (\$1,000).~~

8 For purposes of this subdivision, real and personal property shall
9 be considered both when actually available and when the applicant
10 or recipient has a legal interest in a liquidated sum and has the
11 legal ability to make that sum available for support and
12 maintenance.

13 ~~(b) Notwithstanding subdivision (a) above, an applicant or~~
14 ~~recipient may retain the following:~~

15 ~~(1) Personal or real property owned by him or her, or in~~
16 ~~combination with any other person, without reference to its value,~~
17 ~~if it serves to provide the applicant or recipient with a home. If the~~
18 ~~basic home is a unit in a multiple dwelling, then only that unit~~
19 ~~shall be exempt.~~

20 For the purposes of paragraph (1), if an applicant has entered
21 into a marital separation for the purpose of trial or legal separation
22 or dissolution, real property which was the usual home of the
23 applicant shall be exempt for three months following the end of
24 the month in which aid begins. If the recipient was receiving aid
25 when the marital separation occurred, the period of exemption
26 shall be three months following the end of the month in which the
27 separation occurs. To remain exempt following this three-month
28 period, the home must be occupied by the recipient, or be
29 unavailable for use, control, and possession due to legal
30 proceedings affecting a property settlement or sale of the property.

31 ~~(2) Personal property consisting of one automobile with~~
32 ~~maximum equity value as permitted by federal law.~~

33 ~~(3) In addition to the foregoing, the director may at his or her~~
34 ~~discretion, and to the extent permitted by federal law, exempt other~~
35 ~~items of personal property not exempted under this section.~~

36 SEC. 8. Section 11257 is added to the Welfare and Institutions
37 Code, to read:

38 11257. (a) Notwithstanding any other provision of law, for
39 any individual who is a recipient of aid under this chapter, in order
40 to encourage personal savings as a bridge from government

1 dependency to self-sufficiency, and to create an incentive to saving,
2 there shall be no limitation on the assets of an individual or a family
3 as a condition of eligibility for receiving aid under this chapter, to
4 the extent permitted under federal law.

5 (b) Notwithstanding subdivision (a), an applicant for benefits
6 under this chapter may retain assets not to exceed a total value of
7 seven thousand dollars (\$7,000). This amount shall be adjusted
8 annually in accordance with changes in the California Necessities
9 Index.

10 (c) For the purposes of this section, the term “assets” includes
11 investments that appreciate over time, including, but not limited
12 to, investments that can be converted into cash, such as savings,
13 equities, 401(k) accounts, and individual retirement accounts.
14 Assets also include personal or real property that holds monetary
15 value, such as a house, an automobile, or a small business.

16 SEC. 9. Section 11257.5 of the Welfare and Institutions Code
17 is repealed.

18 ~~11257.5. Notwithstanding the property limitations in~~
19 ~~subdivision (a) of Section 11257, a family may retain, for nine~~
20 ~~months, real property if the family is making a good faith effort~~
21 ~~to sell the real property. However, any aid payable to the family~~
22 ~~for the nine-month period shall be conditioned upon the sale. At~~
23 ~~the time of the sale any aid payments made during the nine-month~~
24 ~~period shall be considered overpayments to the extent they would~~
25 ~~not have been made had the sale occurred at the beginning of the~~
26 ~~nine-month period. Notwithstanding Section 11004 overpayments~~
27 ~~shall be recouped from the proceeds of the sale. If the real property~~
28 ~~has not been sold at the end of the nine-month period, the family~~
29 ~~shall be ineligible for aid if the combined net value of the real and~~
30 ~~personal property owned by the family exceeds the one thousand~~
31 ~~dollar (\$1,000) limitation in Section 11257.~~

32 ~~Notwithstanding Section 11007 as a condition to the granting~~
33 ~~of aid pursuant to this section, the family shall grant the county a~~
34 ~~lien upon the real property as security for the aid to be paid. The~~
35 ~~lien shall be used to recoup any overpayments incurred pursuant~~
36 ~~to this section. Notwithstanding any other provision of law, the~~
37 ~~lien shall not be enforceable by the sale of the secured property~~
38 ~~by the county. The lien of the county shall be paid upon the sale~~
39 ~~of the property.~~

40 ~~The department shall define good faith effort in regulation.~~

1 SEC. 10. Section 11260 of the Welfare and Institutions Code
2 is repealed.

3 ~~11260. A child's share of any estate, which share has not been~~
4 ~~distributed and of which he has no present economic use, does not~~
5 ~~constitute property for the purpose of this chapter.~~

6 SEC. 11. No appropriation pursuant to Section 15200 of the
7 Welfare and Institutions Code shall be made for the purposes of
8 this act.

9 SEC. 12. If the Commission on State Mandates determines
10 that this act contains costs mandated by the state, reimbursement
11 to local agencies and school districts for those costs shall be made
12 pursuant to Part 7 (commencing with Section 17500) of Division
13 4 of Title 2 of the Government Code.